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JUL 25 2007

PTO/SB/64 (04-07)

Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

109770.0018

First named inventor: Peter J. Ulintz

Application No.: 10/692,217

Art Unit: 3616

Filed: October 23, 2003

Examiner: Laura Beth Freedman

Title: AXIALLY ADJUSTABLE STEERING COLUMN ASSEMBLY WITH FLEXIBLE BEARING SLEEVE

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 1,640.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of Appeal Brief (identify type of reply):

☒ has been filed previously on November 21, 2006
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____
☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/64 (04-07)

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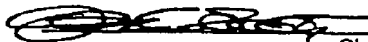
3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

July 25, 2007

Date

James C. Scott

Typed or printed name

35,351

Registration Number, if applicable

1375 East Ninth Street, One Cleveland Center, 9th FL

Address

216.623.0150

Telephone Number

Cleveland, Ohio 44114

Address

Enclosures: ☐ Fee Payment☒ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☒ Other: sheet with deposit account information on it for Petition fee (1640).**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

7/25/2007

Date



Signature

Jennifer Safranek

Typed or printed name of person signing certificate

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JUL 25 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Ulitz
Application No. 10/692,217
Filed: October 23, 2003
Attorney Docket No. 109770.0018

ON PETITION

This is a decision on the correspondence entitled, "RESPONSE TO NOTICE OF ABANDONMENT," filed May 21, 2007. The correspondence will be treated as a petition under 37 CFR 1.181, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is not final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned as a result of petitioner's alleged failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As the Office had no record of an appeal brief (and appeal brief fee) being filed within two (2) months of the Notice of Appeal filed September 21, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application was considered abandoned on November 22, 2006. See MPEP 1215.04.

Petitioner asserts a reply was timely transmitted via facsimile to the Office on November 21, 2006. The Office has no record of receiving the Appeal Brief. However, the copy of the Brief of Appellant under 37 CFR 1.192 submitted with the instant petition contains a certificate of transmission citing a November 21, 2006 date of transmission.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to

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Application No. 10/692,217
Decision On Petition

support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has supplied persuasive evidence of facsimile transmission on November 21, 2006. The transmittal form bears a proper certificate of mailing, dated November 21, 2006, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Jennifer C. Safranek, had reasonable basis to expect that the correspondence would be transmitted on November 21, 2006. It is noted that Ms. Safranek signed the certificate of transmission for the present petition. Petitioner has submitted their sending unit's confirmation page that shows 15 pages were successfully transmitted to 571 273-0053.

Unfortunately, petitioner has not provided evidence that the \$250.00 Appeal Brief fee was paid on November 21, 2006. It appears that the Appeal Brief was submitted, but the required fee was not paid.

Therefore, the petition is **dismissed**. Petitioner is encouraged to file evidence that the Appeal Brief fee was submitted in any reconsideration petition. If petitioner is not able to provide persuasive evidence that the fee was paid, petitioner should consider filing a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

For future reference, facsimile transmissions (with few exceptions) **must** be sent to the centralized facsimile number – 571-273-8300-, or they will be deemed informal/proposed responses. See MPEP 502.01 In the instant case, the Notice of Appeal and Appeal Brief should have been sent to the centralized facsimile number. The number used, 571 273-0053, is the facsimile number for the Board of Appeals.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300– ATTN: Office of Petitions

Application No. 10/692,217
Decision On Petition

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Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Safranek, Jennifer

From: FAX NOTIFICATION (Cleveland Fax Notification Gateway) [Cleveland.Fax@ralaw.com]
Sent: Tuesday, November 21, 2006 3:07 PM
To: Safranek, Jennifer
Subject: Delivered: Fax from HP 9100C

Your fax was sent successfully to 1.571.273.0053 @ 1.571.273.0053
15 pages were sent with 0 redial attempts
Off-hook time was 05:35



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11/21/2006



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216.623.0150 MAIN
216.623.0134 FAX

DATE: 11/21/2006 PAGES (INCLUDING COVER PAGE): 15
TO: APPEAL BRIEF FAX: 571.273.0053
FROM: James C. Scott CLIENT MATTER: 109770.0018

We are transmitting from facsimile equipment, which will automatically connect transmissions to Roetzel & Andress twenty-four hours a day. If problems arise during transmission, please contact the operator at the office number listed above. Thank you.

NOTE: Unless otherwise indicated, the information contained in this facsimile transmission is confidential information intended for the use of the individual or entity named above. The information contained in this transmission may also be attorney-client privileged and/or protected as attorney work product. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is confidential or otherwise privileged, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service at our expense. Thank you.

COMMENTS:

Dear Sirs,

Please see the attached Appeal Brief.

Thank you.

294916.109770.0018

CLEVELAND TOLEDO AKRON COLUMBUS CINCINNATI WASHINGTON, D.C. TALLAHASSEE FORT MYERS NAPLES

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